UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA EASTERN DIVISION

No. 4:09-CV-37-DAN

ROBERT E. GIBBS,)
Plaintiff,))
v.	<u>ORDER</u>
JOHN E. POTTER,))
Postmaster General, United)
States Postal Service,)
)
Defendant.)

This matter is before the Court on the *pro se* Plaintiff's motion for discovery [DE-50] and motion for an extension of time to file an appeal [DE-52]. Defendant has not responded to the motions, and the matters are ripe for decision.

On September 27, 2010, the Court granted Defendant's motion to dismiss and entered Judgment in favor of Defendant [DE-47 & 49]. On September 30, 2010, Plaintiff filed a motion for discovery and a hearing on why Plaintiff was terminated from his employment with the United States Postal Service. The Court has already concluded that Plaintiff's amended complaint stated no actionable claims as a matter of law. *See* Sept. 27, 2010 Order at 10 [DE-47]. The case was closed subsequently closed, and Plaintiff has since appealed this Court's decision [DE-51]. Accordingly, Plaintiff's motion for discovery and hearing is **DENIED**.

On October 7, 2010, Plaintiff filed a motion seeking "an extension pursuant to Rule 6" and "an appeal pursuant to Rule 72." The Clerk's Office docketed Plaintiff's filing as both a motion for extension of time [DE-52] and a notice of appeal [DE-51]. Therefore, because

¹ Neither rule applies in this case. Rule 4 of the Federal Rules of Appellate Procedure dictates the time for filing an appeal in a civil case, and Rule 73 of the Federal Rules of Civil Procedure governs consent cases.

Plaintiff timely filed his notice of appeal within the 60 days provided under Rule 4(a)(1)(B), the motion for extension of time is **DENIED AS MOOT**. To the extent Plaintiff seeks an extension of briefing or other post-filing deadlines in connection with his appeal, such relief is within the province of the Court of Appeals and cannot be granted by this Court.

CONCLUSION

Plaintiff's motion for discovery [DE-50] is **DENIED**, and Plaintiff's motion for an extension of time to file an appeal [DE-52] is **DENIED AS MOOT**.

This the 65 day of November, 2010.

DAVID W. DANIEL

United States Magistrate Judge